

IN THE WATER COURT OF THE STATE OF MONTANA  
LOWER MISSOURI DIVISION  
MUSSELSHELL RIVER ABOVE ROUNDUP BASIN (40A)  
PRELIMINARY DECREE

\* \* \* \* \*

CLAIMANT: Moore and Moore LLC

**CASE 40A-0370-R-2022**

40A 203792-00	40A 203798-00
40A 203794-00	40A 203804-00
40A 203795-00	40A 203805-00
40A 203796-00	40A 203806-00
40A 203797-00	

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

## **MASTER'S REPORT**

Water Right Claims 40A 203792-00, 40A 203794-00, 40A 203795-00, 40A 203796-00, 40A 203797-00, 40A 203798-00, 40A 203804-00, 40A 203805-00, and 40A 203806-00 appeared in the Preliminary Decree for the Musselshell River, above Roundup (Basin 40A). These claims received issue remarks. Issue remarks result from Department of Natural Resources and Conservation ("DNRC") claims examination or by Water Court order. Claims examination confirms the historical use of water right claims and identifies issues with claims. If claims examination cannot confirm some aspect of a claim, an issue remark is added to the claim. These claims did not receive any objections or notices of intent to appear.

The Court consolidated these claims into Water Court Case 40A-0370-R-2022 on June 6, 2022. The consolidation order set a filing deadline by which Claimant was to file information resolving the issue remarks on these claims. The Court did not receive a response so it set a second filing deadline on October 17, 2022. The Court received a responsive filing on November 7, 2022. The Court issued a subsequent order clarifying information and providing Claimant an opportunity to comment. The Court did not receive any additional filings.

## **FINDINGS OF FACT**

1. Each above-captioned claim, except Claims 40A 203805-00 and 40A 203806-00, appeared with the following issue remarks:

POINTS OF DIVERSION NOS. 1 AND 2 APPEAR TO BE IN THE NWSWNW SEC 11 TWP 7N RGE 12E WHEATLAND COUNTY.

POINT OF DIVERSION NO. 4 APPEARS TO BE IN THE NESENW SEC 15 TWP 7N RGE 12E WHEATLAND COUNTY.

2. Claim 40A 203798-00 also appeared with the following issue remark:

THE CLAIMED POINT OF DIVERSION NO. 5 IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA SOURCES.

3. Claims 40A 203805-00 and 40A 203806-00 each appeared with the following issue remarks:

THE POINT OF DIVERSION, RESERVOIR RECORD, AND PLACE OF USE ARE IN QUESTION. THERE DOES NOT APPEAR TO BE A RESERVOIR AT THE CLAIMED LOCATION.

MEANS OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

*Point of Diversion Issue Remarks*

4. Claimant's November 7, 2022 response was filed by Steve Moore of Moore and Moore LLC. Mr. Moore indicated agreement with the legal land descriptions proposed in the issue remarks and confirmed those descriptions using GPS coordinates. Mr. Moore also provided GPS coordinates for Point of Diversion No. 5 of Claim 40A 203798-00. The Court clarified in its February 13, 2023 order that the location of Point of Diversion No. 5 could be best described as NENWNW of Section 15, T7N, R12E. The Court requested that Claimant notify the Court if that description was incorrect. Claimant did not respond.

5. Points of diversion Nos. 1 and 2 of each above-captioned claim except Claims 40A 203805-00 and 203806-00 should be described as NWSWNW of Section 11, T7N, R12E.

6. Point of Diversion No. 4 of each above-captioned claim except Claims 40A 203805-00 and 203806-00 should be described as NESENW Section 15 T7N R12E.

7. Point of Diversion No. 5 of Claim 40A 203798-00 should be described as NENWNW of Section 15, T7N, R12E.

8. The issue remarks should be removed from these claims.

40A 203805-00 and 40A 203806-00 Reservoirs

9. The Court's February 13, 2023 order also requested Claimant file information regarding the reservoirs claimed by Claims 40A 203805-00 and 40A 203806-00 if the reservoirs did not exist or were incorrectly described on the Preliminary Decree abstracts. This Water Master set a deadline for the Claimant to notify the Court if the legal land descriptions are incorrect or the rights are not associated with stock reservoirs. Claimant did not respond.

10. Each claim file for Claims 40A 203805-00 and 40A 203806-00 contains a marked-up review abstract depicting pre-Decree changes made by the DNRC. A variation of the following note exists on the review abstract for each of these claims:

Period of Diversion: ~~MARCH 1 TO DECEMBER 4~~ → Year-Round  
Diversion Means: ~~LIVESTOCK DIRECT FROM SOURCE~~ → Dam  
Means of Diversion  
added THE POINT OF DIVERSION, RESERVOIR RECORD, AND PLACE OF USE ARE IN QUESTION. THERE DOES NOT APPEAR TO BE A RESERVOIR AT THE CLAIMED LOCATION.  
Reservoir: ONSTREAM  
Govt Lot Qtr Sec Sec Twp Rge County  
NWNWNE 10 7N 12E WHEATLAND  
res too small to see?

11. As noted by the DNRC examiner, the claimed reservoirs could be small enough that they are difficult to locate on aerial imagery. There is no other evidence in the claim files contradicting the existence of the claimed reservoirs.

12. Information attached to the statement of claim of both Claims 40A 203805-00 and 40A 203806-00 reference the construction of reservoirs before July 1, 1973.

13. The issue remarks should be removed from these claims.

APPLICABLE LAW

1. A properly filed statement of claim is prima facie proof of its content. Section 85-2-227, MCA. The prima facie status of a claim may be overcome by a preponderance of the evidence. Section 85-2-227, MCA; Rule 19, W.R.Adj.R. A

preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

2. The Water Court must weigh an issue remark, and the information resulting in that issue remark, against the claimed water right. Section 85-2-247(2), MCA.

3. The Water Court must resolve all issue remarks not resolved through the objection process. Section 85-2-248, MCA. The Court must review information in the claim file or obtained by the Court to determine if there is a sufficient basis to resolve the remarks. 85-2-248(3), MCA.

### **CONCLUSIONS OF LAW**

1. The changes described in the Findings of Fact may be made because the evidence in the record overcomes the prima facie status of each relevant claim by a preponderance of the evidence.

2. The evidence in the record and the proposed changes provide the Court with a sufficient basis to resolve and remove each issue remark from each above-captioned claim.

3. Claims 40A 203805-00 and 40A 203806-00 may be decreed without substantive modifications because the reservoir issue remarks and information substantiating the remarks do not overcome the prima facie status of each claim.

### **RECOMMENDATIONS**

Based upon the Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. Post-decree Abstracts of Water Right Claims are served with this Report to confirm the recommended changes have been made in the state’s centralized record system.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Moore and Moore LLC  
% Steven & Susan Moore  
PO Box 205  
Two Dot, MT 59085

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MUSSELSHELL RIVER, ABOVE ROUNDUP**  
**BASIN 40A**

**Water Right Number:** 40A 203792-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** MOORE AND MOORE LLC  
% STEVEN & SUSAN MOORE  
PO BOX 205  
TWO DOT, MT 59085 0205

**Priority Date:** MARCH 22, 1886

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 260.00 GPM

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 269.00

**\*Source Name:** MILLER CREEK

**Source Type:** SURFACE WATER

CASE NO. 1776 WHEATLAND CNTY DECREES THE SOURCE AS LITTLE ELK CREEK. THE SOURCE IS NOW KNOWN AS MILLER CREEK AS DENOTED ON THE UNITED STATES GEOLOGICAL SURVEY TOPOGRAPHIC MAP.

**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
2		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
3		SWNENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
4		NESENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
5		SWSWNW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					

**Period of Use:** MARCH 1 TO NOVEMBER 30

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5.00		SENE	10	7N	12E	WHEATLAND
2	2.00		SWNE	10	7N	12E	WHEATLAND
3	30.00		NESE	10	7N	12E	WHEATLAND
4	30.00		NWSE	10	7N	12E	WHEATLAND
5	5.00		SESE	10	7N	12E	WHEATLAND
6	30.00		SWSE	10	7N	12E	WHEATLAND
7	5.00		NESW	10	7N	12E	WHEATLAND
8	35.00		SESW	10	7N	12E	WHEATLAND
9	35.00		W2SW	10	7N	12E	WHEATLAND
10	2.00		NENE	11	7N	12E	WHEATLAND
11	20.00		NWNE	11	7N	12E	WHEATLAND
12	20.00		NENW	11	7N	12E	WHEATLAND
13	5.00		SENWNW	11	7N	12E	WHEATLAND
14	5.00		NENE	15	7N	12E	WHEATLAND
15	30.00		NWNE	15	7N	12E	WHEATLAND
16	10.00		NENW	15	7N	12E	WHEATLAND
<b>Total:</b>	<u>269.00</u>						

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**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

203792-00

203794-00

203795-00

203796-00

203797-00

203798-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MUSSELSHELL RIVER, ABOVE ROUNDUP**  
**BASIN 40A**

**Water Right Number:** 40A 203794-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** MOORE AND MOORE LLC  
% STEVEN & SUSAN MOORE  
PO BOX 205  
TWO DOT, MT 59085 0205

**Priority Date:** JUNE 30, 1907

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 258.06 GPM  
THE FLOW RATE OF THIS RIGHT IS 23.00 MINER'S INCHES (0.575 CFS).

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 269.00

**\*Source Name:** MILLER CREEK

**Source Type:** SURFACE WATER  
CASE NO. 1776 WHEATLAND CNTY DECREES THE SOURCE AS LITTLE ELK CREEK. THE SOURCE IS NOW KNOWN AS MILLER CREEK AS DENOTED ON THE UNITED STATES GEOLOGICAL SURVEY TOPOGRAPHIC MAP.

**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
2		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
3		SWNENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
4		NESENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
5		SWSWNW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					

**Diversion Means:** HEADGATE  
**Period of Use:** MARCH 1 TO NOVEMBER 30  
**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5.00		NENE	15	7N	12E	WHEATLAND
2	30.00		NWNE	15	7N	12E	WHEATLAND
3	10.00		NENW	15	7N	12E	WHEATLAND
4	2.00		NENE	11	7N	12E	WHEATLAND
5	20.00		NWNE	11	7N	12E	WHEATLAND
6	20.00		NENW	11	7N	12E	WHEATLAND
7	5.00		SENWNW	11	7N	12E	WHEATLAND
8	2.00		SWNE	10	7N	12E	WHEATLAND
9	5.00		SENE	10	7N	12E	WHEATLAND
10	5.00		NESW	10	7N	12E	WHEATLAND
11	35.00		W2SW	10	7N	12E	WHEATLAND
12	35.00		SESW	10	7N	12E	WHEATLAND
13	30.00		NESE	10	7N	12E	WHEATLAND
14	30.00		NWSE	10	7N	12E	WHEATLAND
15	30.00		SWSE	10	7N	12E	WHEATLAND
16	5.00		SESE	10	7N	12E	WHEATLAND
<b>Total:</b>		269.00					

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**Remarks:**

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203792-00      203794-00      203795-00      203796-00      203797-00      203798-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MUSSELSHELL RIVER, ABOVE ROUNDUP**  
**BASIN 40A**

**Water Right Number:** 40A 203795-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** MOORE AND MOORE LLC  
% STEVEN & SUSAN MOORE  
PO BOX 205  
TWO DOT, MT 59085 0205

**Priority Date:** SEPTEMBER 30, 1907

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 202.00 GPM

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 269.00

**\*Source Name:** MILLER CREEK

**Source Type:** SURFACE WATER

CASE NO. 1776 WHEATLAND CNTY DECREES THE SOURCE AS LITTLE ELK CREEK. THE SOURCE IS NOW KNOWN AS MILLER CREEK AS DENOTED ON THE UNITED STATES GEOLOGICAL SURVEY TOPOGRAPHIC MAP.

**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
2		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
3		SWNENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
4		NESENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
5		SWSWNW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					

**Period of Use:** MARCH 1 TO NOVEMBER 30

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5.00		SENE	10	7N	12E	WHEATLAND
2	2.00		SWNE	10	7N	12E	WHEATLAND
3	30.00		NESE	10	7N	12E	WHEATLAND
4	30.00		NWSE	10	7N	12E	WHEATLAND
5	5.00		SESE	10	7N	12E	WHEATLAND
6	30.00		SWSE	10	7N	12E	WHEATLAND
7	5.00		NESW	10	7N	12E	WHEATLAND
8	35.00		SESW	10	7N	12E	WHEATLAND
9	35.00		W2SW	10	7N	12E	WHEATLAND
10	2.00		NENE	11	7N	12E	WHEATLAND
11	20.00		NWNE	11	7N	12E	WHEATLAND
12	20.00		NENW	11	7N	12E	WHEATLAND
13	5.00		SENWNW	11	7N	12E	WHEATLAND
14	5.00		NENE	15	7N	12E	WHEATLAND
15	30.00		NWNE	15	7N	12E	WHEATLAND
16	10.00		NENW	15	7N	12E	WHEATLAND
<b>Total:</b>	<u>269.00</u>						

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**Remarks:**

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203792-00

203794-00

203795-00

203796-00

203797-00

203798-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MUSSELSHELL RIVER, ABOVE ROUNDUP**  
**BASIN 40A**

**Water Right Number:** 40A 203796-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** MOORE AND MOORE LLC  
% STEVEN & SUSAN MOORE  
PO BOX 205  
TWO DOT, MT 59085 0205

**Priority Date:** JUNE 30, 1916

**Type of Historical Right:** USE

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 10.20 CFS

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 269.00

**\*Source Name:** MILLER CREEK

**Source Type:** SURFACE WATER

**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 1					
<b>Diversion Means:</b>	HEADGATE					
2		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 1					
<b>Diversion Means:</b>	HEADGATE					
3		SWNENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 1					
<b>Diversion Means:</b>	HEADGATE					
4		NESENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 1					
<b>Diversion Means:</b>	HEADGATE					
5		SWSWNW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 1					
<b>Diversion Means:</b>	HEADGATE					
<b>Period of Use:</b>	MARCH 1 TO NOVEMBER 1					

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5.00		SENE	10	7N	12E	WHEATLAND
2	2.00		SWNE	10	7N	12E	WHEATLAND
3	30.00		NESE	10	7N	12E	WHEATLAND
4	30.00		NWSE	10	7N	12E	WHEATLAND
5	5.00		SESE	10	7N	12E	WHEATLAND
6	30.00		SWSE	10	7N	12E	WHEATLAND
7	5.00		NESW	10	7N	12E	WHEATLAND
8	35.00		SESW	10	7N	12E	WHEATLAND
9	35.00		W2SW	10	7N	12E	WHEATLAND
10	2.00		NENE	11	7N	12E	WHEATLAND
11	20.00		NWNE	11	7N	12E	WHEATLAND
12	20.00		NENW	11	7N	12E	WHEATLAND
13	5.00		SENWNW	11	7N	12E	WHEATLAND
14	5.00		NENE	15	7N	12E	WHEATLAND
15	30.00		NWNE	15	7N	12E	WHEATLAND
16	10.00		NENW	15	7N	12E	WHEATLAND
<b>Total:</b>		269.00					

---

**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

203792-00

203794-00

203795-00

203796-00

203797-00

203798-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MUSSELSHELL RIVER, ABOVE ROUNDUP**  
**BASIN 40A**

**Water Right Number:** 40A 203797-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** MOORE AND MOORE LLC  
% STEVEN & SUSAN MOORE  
PO BOX 205  
TWO DOT, MT 59085 0205

**Priority Date:** MARCH 31, 1878

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 1.15 CFS

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 269.00

**\*Source Name:** MILLER CREEK

**Source Type:** SURFACE WATER

CASE NO. 1776 WHEATLAND CNTY DECREES THE SOURCE AS LITTLE ELK CREEK. THE SOURCE IS NOW KNOWN AS MILLER CREEK AS DENOTED ON THE UNITED STATES GEOLOGICAL SURVEY TOPOGRAPHIC MAP.

**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
2		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
3		SWNENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
4		NESENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
5		SWSWNW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					

**Period of Use:** MARCH 1 TO NOVEMBER 30

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5.00		SENE	10	7N	12E	WHEATLAND
2	2.00		SWNE	10	7N	12E	WHEATLAND
3	30.00		NESE	10	7N	12E	WHEATLAND
4	30.00		NWSE	10	7N	12E	WHEATLAND
5	5.00		SESE	10	7N	12E	WHEATLAND
6	30.00		SWSE	10	7N	12E	WHEATLAND
7	5.00		NESW	10	7N	12E	WHEATLAND
8	35.00		SESW	10	7N	12E	WHEATLAND
9	35.00		W2SW	10	7N	12E	WHEATLAND
10	2.00		NENE	11	7N	12E	WHEATLAND
11	20.00		NWNE	11	7N	12E	WHEATLAND
12	20.00		NENW	11	7N	12E	WHEATLAND
13	5.00		SENWNW	11	7N	12E	WHEATLAND
14	5.00		NENE	15	7N	12E	WHEATLAND
15	30.00		NWNE	15	7N	12E	WHEATLAND
16	10.00		NENW	15	7N	12E	WHEATLAND
<b>Total:</b>	<u>269.00</u>						

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**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

203792-00

203794-00

203795-00

203796-00

203797-00

203798-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MUSSELSHELL RIVER, ABOVE ROUNDUP**  
**BASIN 40A**

**Water Right Number:** 40A 203798-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** MOORE AND MOORE LLC  
% STEVEN & SUSAN MOORE  
PO BOX 205  
TWO DOT, MT 59085 0205

**Priority Date:** JUNE 30, 1882

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 2.30 CFS

**Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 269.00

**Source Name:** MILLER CREEK

**Source Type:** SURFACE WATER

CASE NO. 1776 WHEATLAND CNTY DECREES THE SOURCE AS LITTLE ELK CREEK. THE SOURCE IS NOW KNOWN AS MILLER CREEK AS DENOTED ON THE UNITED STATES GEOLOGICAL SURVEY TOPOGRAPHIC MAP.

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
2		NWSWNW	11	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
3		SWNENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
4		NESENW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					
5		NENWNW	15	7N	12E	WHEATLAND
<b>Period of Diversion:</b>	MARCH 1 TO NOVEMBER 30					
<b>Diversion Means:</b>	HEADGATE					

**Period of Use:** MARCH 1 TO NOVEMBER 30

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5.00		SENE	10	7N	12E	WHEATLAND
2	2.00		SWNE	10	7N	12E	WHEATLAND
3	30.00		NESE	10	7N	12E	WHEATLAND
4	30.00		NWSE	10	7N	12E	WHEATLAND
5	5.00		SESE	10	7N	12E	WHEATLAND
6	30.00		SWSE	10	7N	12E	WHEATLAND
7	5.00		NESW	10	7N	12E	WHEATLAND
8	35.00		SESW	10	7N	12E	WHEATLAND
9	35.00		W2SW	10	7N	12E	WHEATLAND
10	2.00		NENE	11	7N	12E	WHEATLAND
11	20.00		NWNE	11	7N	12E	WHEATLAND
12	20.00		NENW	11	7N	12E	WHEATLAND
13	5.00		SENWNW	11	7N	12E	WHEATLAND
14	5.00		NENE	15	7N	12E	WHEATLAND
15	30.00		NWNE	15	7N	12E	WHEATLAND
16	10.00		NENW	15	7N	12E	WHEATLAND
<b>Total:</b>	<u>269.00</u>						

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**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

203792-00

203794-00

203795-00

203796-00

203797-00

203798-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MUSSELSHELL RIVER, ABOVE ROUNDUP**  
**BASIN 40A**

**Water Right Number:** 40A 203804-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** MOORE AND MOORE LLC  
% STEVEN & SUSAN MOORE  
PO BOX 205  
TWO DOT, MT 59085 0205

**Priority Date:** JUNE 30, 1968

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** UNNAMED TRIBUTARY OF BIG ELK CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESWNE	25	7N	12E	WHEATLAND

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SESWNE	25	7N	12E	WHEATLAND

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 11.00 FEET

**Depth:** 8.00 FEET

**Surface Area:** 0.10 ACRES

**Capacity:** 0.32 ACRE-FEET

**Period of Use:** MAY 1 TO DECEMBER 1

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SESWNE	25	7N	12E	WHEATLAND

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MUSSELSHELL RIVER, ABOVE ROUNDUP**  
**BASIN 40A**

**Water Right Number:** 40A 203805-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** MOORE AND MOORE LLC  
% STEVEN & SUSAN MOORE  
PO BOX 205  
TWO DOT, MT 59085 0205

**Priority Date:** MAY 30, 1962

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** UNNAMED TRIBUTARY OF LITTLE ELK CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWNE	10	7N	12E	WHEATLAND

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWNWNE	10	7N	12E	WHEATLAND

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** MARCH 1 TO DECEMBER 1

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NWNWNE	10	7N	12E	WHEATLAND

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MUSSELSHELL RIVER, ABOVE ROUNDUP**  
**BASIN 40A**

**Water Right Number:** 40A 203806-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** MOORE AND MOORE LLC  
% STEVEN & SUSAN MOORE  
PO BOX 205  
TWO DOT, MT 59085 0205

**Priority Date:** MAY 30, 1962

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** UNNAMED TRIBUTARY OF LITTLE ELK CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENWNW	10	7N	12E	WHEATLAND

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWNW	10	7N	12E	WHEATLAND

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** MARCH 1 TO DECEMBER 1

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENWNW	10	7N	12E	WHEATLAND